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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/598,324

08/24/2006

David Wilkie

4633-16

2665

23117 7590 09/10/2008  
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EXAMINER

OLSON, LARS A

ART UNIT

PAPER NUMBER

3617

MAIL DATE

DELIVERY MODE

09/10/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/598,324	<b>Applicant(s)</b> WILKIE, DAVID	
	<b>Examiner</b> Lars A. Olson	<b>Art Unit</b> 3617	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17, 19-26, 28 and 29 is/are rejected.
- 7) ☒ Claim(s) 18 and 27 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>08242006</u> .  | 6) <input type="checkbox"/> Other: ____.                          |

### **DETAILED ACTION**

1. A preliminary amendment was received from the applicant on August 24, 2006.
2. Claim 30 has been cancelled.

#### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 16 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. Claims 16 and 17 recite the limitation "the fins" in line 2. There is insufficient antecedent basis for this limitation in the claim.

#### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 4, 5, 7, 8, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Irby (US 5,558,551) in view of Ball (US 5,482,485) and Arango (US 5,617,809).

Irby discloses a recreational waterboard for towing a person behind a boat, as shown in Figures 1-6, said waterboard being comprised of a substantially planar structure, defined as Part #12, having a pair of wings each with a leading edge and a trailing edge, said leading edge being swept back, as shown in Figure 3, a pair of rear handgrips, defined as Part #18, that are provided adjacent to said trailing edge of each wing, as shown in Figures 2 and 3, and an aperture, defined as Part #14, for attaching a tow rope, defined as Part #16, to said waterboard.

Irby, as set forth above, discloses all of the features claimed except for the use of a center rear handgrip and a pair of apertures adjacent to said leading edge for attaching a tow bridle.

Ball discloses an aquatic maneuvering device, as shown in Figures 1-4, that is comprised of a base member, defined as Part #10, having a center portion, defined as Part #16, and two wing portions, defined as Part #18, where said center portion is provided with a center rear handgrip, defined as Part #26, that is located adjacent to a rear edge, defined as Part #22, of said device, and a center front handgrip, defined as Part #26, that is located adjacent to a front edge, defined as Part #20, of said device, said center front and rear handgrips being aligned with one another on a center axis of said device, as shown in Figures 1 and 2.

Arango discloses a diving tow board, as shown in Figures 1-3, said board having a pair of apertures, defined as Part #3, that are provided adjacent to a leading edge of said board and arranged symmetrically on either side of a center axis of said board for

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attachment of a tow bridle, defined as Part #1, with a swivel device and a tow rope, as shown in Figure 1.

The use of a waterboard made from a specific material would be considered by one of ordinary skill in the art to be a design choice based upon the required strength and the desired physical characteristics of said material.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to utilize a center rear handgrip, as taught by Ball, and a pair of apertures for attachment of a tow bridle, as taught by Arango, in combination with the recreational waterboard as disclosed by Irby for the purpose of providing a recreational waterboard with means to facilitate gripping of said waterboard by a person during use, and a means to facilitate attachment of a tow line to said waterboard.

8. Claims 2, 3, 6, 9, 10 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Irby in view of Ball and Arango, and further in view of Garrido Salvadores (US 5,655,939).

Irby in combination with the teachings of Ball and Arango shows all of the features claimed except for the use of a series of apertures provided adjacent to said leading edge, a pair of front handgrips adjacent to said leading edge, and a central cut-out arranged on said trailing edge for accommodating a person's head.

Garrido Salvadores discloses a towable board, as shown in Figures 1-6, said board including a plurality of apertures, defined as Part #9, that are arranged in series adjacent to a leading edge of said board, as shown in Figures 5 and 6, a pair of front handgrips, defined as Part #7, that are arranged adjacent to said leading edge of said

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board, as shown in Figures 5 and 6, a central cut-out, defined as Part #6, arranged on a trailing edge of said board for accommodating a person's head during use, as shown in Figure 4, and a pair of fins, defined as Part #8, that are arranged on an underside of said board, as shown in Figures 2-4.

The use of a plurality of apertures having a specific spacing between apertures would be considered by one of ordinary skill in the art to be a design choice based upon the required thickness of the aperture walls to provide sufficient strength to support an object that is placed into or through said apertures.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to utilize a plurality of apertures arranged in series, a pair of front handgrips, and a central cut-out for accommodating a person's head, as taught by Garrido Salvadores, in combination with the recreational waterboard as disclosed by Irby and the teachings of Ball and Arango for the purpose of providing a recreational waterboard with a means to facilitate attachment of a tow line in a variety of configurations, a means to facilitate gripping of said waterboard by a person during use, and a means to allow greater freedom of movement by a person's head during use of said waterboard.

9. Claims 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Irby in view of Ball, Arango and Garrido Salvadores, and further in view of Haller et al. (US 5,819,680).

Irby in combination with the teachings of Ball, Arango and Garrido Salvadores shows all of the features claimed except for the use of one central fin and two outer fins.

Haller et al. discloses a towcraft, as shown in Figures 1-9, said towcraft including a plurality of fins that are attached to an underside of said towcraft, as shown in Figures 1 and 2, said fins, defined as Part #21, further including at least one central fin and at least two outer fins that are spaced equidistantly from said central fin and parallel to a center axis of said towcraft. Said fins are also shown to have curved outer edges, as shown in Figure 2.

The use of fins having a specific size or shape on a waterboard would be considered by one of ordinary skill in the art to be a design choice based upon the desired surface area and handling characteristics of said fins.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to utilize a plurality of fins attached to an underside of a waterboard, as taught by Haller et al., in combination with the recreational waterboard as disclosed by Irby and the teachings of Ball, Arango and Garrido Salvadores for the purpose of providing a recreational watercraft with a means to provide improved handling characteristics when in use on a body of water.

10. Claims 19, 20 and 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Irby in view of Haller et al. and Arango.

Irby, as set forth above, discloses all of the features claimed except for the use of three fins on an underside of said waterboard, and a pair of apertures for attaching a tow rope to said waterboard.

Haller et al., as cited previously, discloses a towcraft that includes a plurality of fins that are attached to an underside of said towcraft, as shown in Figures 1 and 2, said

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fins, defined as Part #21, further including at least one central fin and at least two outer fins that are spaced equidistantly from said central fin and parallel to a center axis of said towcraft. Said fins are also shown to have curved outer edges, as shown in Figure 2.

Arango, as cited previously, discloses a diving tow board having a pair of apertures, defined as Part #3, that are provided adjacent to a leading edge of said board and arranged symmetrically on either side of a center axis of said board for attachment of a tow bridle, defined as Part #1, with a swivel device and a tow rope, as shown in Figure 1.

The use of fins having a specific size or shape on a waterboard would be considered by one of ordinary skill in the art to be a design choice based upon the desired surface area and handling characteristics of said fins.

The use of a waterboard made from a specific material would be considered by one of ordinary skill in the art to be a design choice based upon the required strength and the desired physical characteristics of said material.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to utilize three fins attached to an underside of a waterboard, as taught by Haller et al., and a pair of apertures for attaching a tow line to a waterboard, as taught by Arango, in combination with the recreational waterboard as disclosed by Irby for the purpose of providing a recreational waterboard with a means to provide improved handling characteristics when in use on a body of water, and a means to facilitate attachment of a tow line to said waterboard.



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11. Claims 21 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Irby in view of Haller et al. and Arango, and further in view of Garrido Salvadores.

Irby in combination with the teachings of Haller et al. and Arango shows all of the features claimed except for the use of a central cut-out portion on a trailing edge of said waterboard, and a pair of front handgrips adjacent to a leading edge of said waterboard.

Garrido Salvadores discloses a towable board, as shown in Figures 1-6, said board including a plurality of apertures, defined as Part #9, that are arranged in series adjacent to a leading edge of said board, as shown in Figures 5 and 6, a pair of front handgrips, defined as Part #7, that are arranged adjacent to said leading edge of said board, as shown in Figures 5 and 6, a central cut-out, defined as Part #6, arranged on a trailing edge of said board for accommodating a person's head during use, as shown in Figure 4, and a pair of fins, defined as Part #8, that are arranged on an underside of said board, as shown in Figures 2-4.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to utilize a pair of front handgrips and a central cut-out for accommodating a person's head, as taught by Garrido Salvadores, in combination with the recreational waterboard as disclosed by Irby and the teachings of Haller et al. and Arango for the purpose of providing a recreational waterboard with a means facilitate gripping of said waterboard by a person during use, and a means to allow greater freedom of movement by a person's head during use of said waterboard.

12. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Irby in view of Haller et al. and Arango, and further in view of Ball.

Irby in combination with the teachings of Haller et al. and Arango shows all of the features claimed except for the use of a third rear handgrip that is located adjacent to a trailing edge and on a center axis of a waterboard.

Ball, as cited previously, discloses an aquatic maneuvering device that is comprised of a base member, defined as Part #10, having a center portion, defined as Part #16, and two wing portions, defined as Part #18, where said center portion is provided with a center rear handgrip, defined as Part #26, that is located adjacent to a rear edge, defined as Part #22, of said device, and a center front handgrip, defined as Part #26, that is located adjacent to a front edge, defined as Part #20, of said device, said center front and rear handgrips being aligned with one another on a center axis of said device, as shown in Figures 1 and 2.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to utilize a rear handgrip located adjacent to a trailing edge and on a center axis of a waterboard, as taught by Ball, in combination with the recreational waterboard as disclosed by Irby and the teachings of Haller et al. and Arango for the purpose of providing a recreational waterboard with a means to facilitate gripping of said waterboard by a person during use.

13. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Irby in view of Haller et al., Arango and Garrido Salvadores, and further in view of Ball.

Irby in combination with the teachings of Haller et al., Arango and Garrido Salvadores shows all of the features claimed except for the use of front and rear handgrips aligned with each other on a center axis of a waterboard.

Ball, as cited previously, discloses an aquatic maneuvering device that is comprised of a base member, defined as Part #10, having a center portion, defined as Part #16, and two wing portions, defined as Part #18, where said center portion is provided with a center rear handgrip, defined as Part #26, that is located adjacent to a rear edge, defined as Part #22, of said device, and a center front handgrip, defined as Part #26, that is located adjacent to a front edge, defined as Part #20, of said device, said center front and rear handgrips being aligned with one another on a center axis of said device, as shown in Figures 1 and 2.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to utilize front and rear handgrips that are aligned with each other on a center axis of a waterboard, as taught by Ball, in combination with the recreational waterboard as disclosed by Irby and the teachings of Haller et al., Arango and Garrido Salvadores for the purpose of providing a recreational waterboard with a means to facilitate gripping of said waterboard by a person during use.

***Allowable Subject Matter***

14. Claims 18 and 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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***Conclusion***

15. Any inquiry concerning this communication from the examiner should be directed to Exr. Lars Olson whose telephone number is (571) 272-6685.

lo

August 27, 2008

/Lars A Olson/

Primary Examiner, Art Unit 3617